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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,404	12/16/2005	Gregor John McLennan Anderson	PB60389BUSW	8056
23347	7590	02/26/2009		
GLAXOSMITHKLINE CORPORATE INTELLECTUAL PROPERTY, MAI B482 FIVE MOORE DR., PO BOX 13398 RESEARCH TRIANGLE PARK, NC 27709-3398			EXAMINER COLLINS, MICHAEL	
			ART UNIT 3651	PAPER NUMBER
			NOTIFICATION DATE 02/26/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<i>Office Action Summary</i>	Application No.	Applicant(s)	
	10/561,404	ANDERSON ET AL.	
	Examiner	Art Unit	
	MICHAEL K. COLLINS	3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,8,10-26 and 28-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,8,10-26 and 28-32 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1, 8, 10-26, and 28-32 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 8, 10-26, and 28-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 1 recites the limitation "the dispensing end" in lines 9-10. There is insufficient antecedent basis for this limitation in the claim.
- Claims 8, 10-26, and 28-32 depend from claim 1.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1, 8, 10-26, and 28-32, as best understood, are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Stifter (USP 2,957,503).

Regarding claim 1, Stifter discloses a hand-held dispenser for dispensing a multiplicity of unit products having:

- a storage area (11) for storing the unit products,
- an outlet opening (16) through which the unit products are dispensable from the dispenser,
- a dispensing mechanism (20,22) adapted to dispense a predetermined number of said unit products through the outlet opening per actuation thereof, and
- an actuator (20,21) that is a nozzle which protrudes from the dispensing end and is displaceable into the dispensing end providing the outlet opening, and
- the dispenser being adapted such that the dispensing mechanism (20) is actuable by pushing the dispenser into a palm of a user, and
- the dispenser having a closure (14) which is releasably engageable on the dispensing end to close the outlet opening wherein the closure is a cap, and

- the associated predetermined number of unit products is dispensed into that palm.

Regarding claim 8, Stifter discloses the dispenser of claim 1 wherein when the closure is engaged on the dispensing end the actuator is unable to actuate the dispensing mechanism.

Regarding claim 10, Stifter discloses the dispenser of claim 8 wherein the closure and dispensing end have co-operable retaining features.

Regarding claim 11, Stifter discloses the dispenser of claim 10 wherein the co-operable retaining features are screw thread profiles.

Regarding claim 12, Stifter discloses the dispenser of claim 1 in which the dispensing mechanism has a gate mechanism which, on actuation of the dispensing mechanism, moves from a closed configuration, in which it closes the outlet opening, to an open configuration, in which it allows the predetermined number of unit products to be dispensed from the outlet opening (see Figure 7).

Regarding claim 13, Stifter discloses the dispenser of claim 12 in which the gate mechanism has a biasing structure for biasing the gate mechanism to its closed configuration.

Regarding claim 14, Stifter discloses the dispenser of claim 12 wherein when the dispensing mechanism is actuated the gate mechanism moves to the open configuration to enable the predetermined number of unit products to be dispensed and moves back to the closed configuration behind the dispensed unit products.

Regarding claim 15, Stifter discloses the dispenser of claim 12 wherein the

actuator is displaceable into the dispenser for actuating the dispensing mechanism, and wherein the actuator provides at least a part of the gate mechanism.

Regarding claim 16, Stifter discloses the dispenser of claim 15 wherein the gate mechanism has a first part, on the actuator, and a second part, and wherein inward movement of the actuator causes the first part to move relative to the second part and the gate mechanism to move from the closed configuration to the open configuration.

Regarding claim 17, Stifter discloses the dispenser of claim 16 wherein in the closed configuration the first and second parts co-operate to form a gate across the outlet opening and in the open configuration the gate is opened.

Regarding claim 18, Stifter discloses the dispenser of claim 17 wherein the first part provides a first section of the gate and the second part provides a second section thereof, inward movement of the actuator causing the first and second sections to be separated to form an aperture through which the predetermined number of unit products are able to pass through.

Regarding claim 19, Stifter discloses the dispenser of claim 12 which has an internal channel extending towards the outlet opening in which the unit products are, in use, formed into a queue and the gate mechanism in use selectively opens and closes the channel to enable dispensing of the predetermined number of unit products at the front of the queue (see Figure 1-3).

Regarding claim 20, Stifter discloses the dispenser of claim 19 wherein the nozzle has a tubular configuration with the outlet opening being provided by the lumen thereof, and wherein the channel is disposed in the lumen of the nozzle (see Figure 2).

Regarding claim 21, Stifter discloses the dispenser of claim 19 wherein the gate mechanism is adapted such that on actuation it pushes the portion of the queue behind the predetermined number at the front backwards in the channel.

Regarding claim 22, Stifter discloses the dispenser of claim 21 wherein the gate mechanism has a first part, on the actuator, and a second part, and wherein inward movement of the actuator causes the first part to move relative to the second part and the gate mechanism to move from the closed configuration to the open configuration, and wherein the first part of the gate mechanism pushes the queue portion backwards on actuation of the actuator (see Figures 1-2).

Regarding claim 23, Stifter discloses the dispenser of claim 1 wherein the storage area is in a first dispenser part and the dispensing mechanism and the outlet opening are in a second dispenser part attached to the first dispenser part (see Figure 1).

Regarding claim 24, Stifter discloses the dispenser of claim 23 in which the first and second dispenser parts are releasably attached.

Regarding claim 25, Stifter discloses the dispenser of claim 23 in which the first dispenser part has an access opening through which the unit products are transferable from the first dispenser part to the second dispenser part and the closure is releasably engagable with the first dispenser part, when detached from the second dispenser part, to close the access opening.

Regarding claim 26, Stifter discloses the dispenser of claim 1 in which the dispensing mechanism is a pump-action dispensing mechanism.

Regarding claim 28, Stifter discloses the dispenser of claim 1 containing the multiplicity of unit products (see Figure 1).

Regarding claim 29, Stifter discloses the dispenser of claim 28 wherein the unit products are pharmaceutical dosage forms.

Regarding claim 30, Stifter discloses the dispenser of claim 28 wherein the unit products are pills.

Regarding claim 31, Stifter discloses the dispenser of claim 1 adapted such that the unit products are gravity-fed to the outlet opening.

Regarding claim 32, Stifter discloses a dispensing module adapted for attachment to a container for a multiplicity of unit products in the form of the second dispenser part of claim 23.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL K. COLLINS whose telephone number is (571)272-8970. The examiner can normally be reached on 8:30 am - 5:00 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M.K.C.
2/19/2009

/Gene Crawford/
Supervisory Patent Examiner, Art
Unit 3651